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Yankwitt LLP Awarded Costs and Fees in NDNY Contempt of Court Hearing

Yankwitt LLP Partner [Ben Allee](#) and Associate [Connor Hilbie](#) successfully opposed a motion to vacate a Contempt Order at an evidentiary hearing in the Northern District of New York in Syracuse, securing attorneys' fees and costs from a witness who failed to respond to a subpoena in connection with a civil action pending before the Southern District of New York. To support his motion to vacate, the witness alleged that he was never properly served with either the subpoena or contempt motion and thus, the Northern District of New York lacked personal jurisdiction over him, rendering the Contempt Order invalid.

While the court determined that the witness properly asserted sufficient facts to warrant an evidentiary hearing, the court held that the testimony of the process server at the hearing was credible regarding his many attempts at service and subsequently found as a matter of law that such attempts constituted the requisite "due diligence" to properly effectuate service under New York law.

Importantly, the court also held that the witness' attempts to avoid service constituted willful non-compliance with the subpoena and warranted an award to Yankwitt LLP of its reasonable attorneys' fees and costs.

The witness is the father of the plaintiff in the underlying Southern District of New York action, who accused Yankwitt LLP's client of sexual assault, allegations the defendant vehemently denies and for which he filed crossclaims for defamation. Yankwitt LLP recently secured another victory in the case, prevailing on a motion for sanctions against the plaintiff for untimely disclosure of evidence. The underlying case is ongoing.